

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

MICHAEL STEVEN WILKES,)	CV 05-38-H-CSO
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
CHARLES SMALL, SR., et al.,)	
)	
Defendants.)	
)	

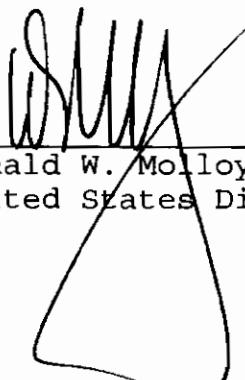
Plaintiff Wilkes has applied to proceed *in forma pauperis* with this action. United States Magistrate Judge Carolyn S. Ostby recommends denial of Plaintiff Gehring's application to proceed *in forma pauperis* and dismissal of this case because of her conclusion upon review of the Plaintiff's filings that "[with respect to each of Wilkes' contentions, either the Court lacks jurisdiction or the contention is patently frivolous and lacking in merit."

I can find no clear error with Judge Ostby's recommendation and adopt it in full. "A district court may deny leave to proceed *in forma pauperis* at the outset if it appears from the face of the proposed complaint that the action is frivolous or without merit." Tripathi v. First National Bank & Trust, 821 F.2d

1368, 1370 (9th Cir. 1987). Such is the case here.

It is therefore HEREBY ORDERED that Wilkes' application to proceed *in forma pauperis* is DENIED and this matter is DISMISSED. The Clerk of this Court is instructed to close the case file.

DATED this 23nd day of May, 2006.


Donald W. Molloy, Chief Judge
United States District Court